

SUPREME COURT OF ARKANSAS

IN RE: ADMINISTRATIVE ORDER
NUMBER 18 – ADOPTION OF NEW
SECTION 6 – JURISDICTION OF
PILOT STATE DISTRICT COURT
JUDGESHIPS

Opinion Delivered September 27, 2007

PER CURIAM

On February 8, 2007, we published for comment an alternative proposal to that recommended to the court by the Legislative Task Force on District Courts dealing with the subject matter jurisdiction of pilot state district court judgeships. *See In Re: Report of Legislative Task Force on District Courts -- Alternative Proposal being Published for Comment*, 368 Ark. Appx. (February 8, 2007). Today, we announce our plan for these courts.

To briefly review the history of these judgeships and how we reached this point, Act 1849 of 2005 created the Legislative Task Force on District Courts, and it was charged with conducting a comprehensive study of the transition of district court judges to state-employee status and the funding and role of district courts. The Task Force recommended that certain district court judges participating in a pilot program preside over matters pending in the circuit court. The Task Force's proposal was published for comment on October 26, 2006. *See In Re: Report of the Legislative Task Force on District Courts*, 367 Ark. Appx. (2006). Following our review of the Task Force's proposal and with the benefit of comments received from the bench and bar, we proposed our alternative formulation. As we stated at the time,

a critical factor in our alternative was the current lack of court reporters to assist the pilot district court judges. *In Re: Report of Legislative Task Force on District Courts -- Alternative Proposal being Published for Comment*, (February 8, 2007). Pilot state district court judgeships are now a reality with the enactment of Act 663 of 2007.

We reviewed additional comments in response to our February *per curiam* order, and we have further revised our proposal by increasing the original jurisdiction monetary amount to \$25,000¹, making some provision for unlawful detainer cases in response to Act 535 of 2007, setting procedures for the reference jurisdiction and the consent jurisdiction², and limiting the reference jurisdiction to coincide with the pilot court's territorial jurisdiction.

We have also added a provision under the reference heading at section 6 (b)(4), denominated, "Other Matters," to address matters of an emergency or uncontested nature. Such matters may be "referenced" pursuant to guidelines and procedures set out in a circuit's administrative plan. Those circuits having pilot state district court judgeships³ have already submitted proposed administrative plans for 2008. If they want to take advantage of this "Other Matters" provision, we encourage them to formulate appropriate guidelines and submit an amended administrative plan to the supreme court.

To facilitate implementation of consent jurisdiction, two forms are appended to

¹ So as to avoid any question, the increased monetary amounts do not affect small claims cases. (See section 4 which is cross-referenced to section 3).

² Consent jurisdiction can include cases filed in the civil, domestic relations, and probate divisions of circuit court.

³ 2, 5, 8-South, 12, 13, 14, 16, 19-West, and 22.

Administrative Order Number 18: "Notice of Right to Disposition of Case by a Pilot State District Court Judge" and "Consent to Proceed before a Pilot State District Court Judge." We also emphasize that consent jurisdiction entails the waiver of a jury trial and a verbatim record. *See* section (6)(d)(2).

We now adopt amendments to Administrative Order 18 which add a new section 6 and renumber the remaining sections, and we republish Administrative Order Number 18 as set out below. This new section 6 applies only to the pilot state district court judgeships created by Act 663 of 2007 and is effective upon the effective date of such courts.

We recognize that this is a work in progress, and we will respond to issues affecting these pilot state district court judgeships as they arise, but we believe that revised Administrative Order Number 18 is a good beginning.

ADMINISTRATIVE ORDER NUMBER 18 —

ADMINISTRATION OF DISTRICT COURTS

This administrative order is promulgated pursuant to Ark. Const. Amend. 80, § 7; Ark. Code Ann. §16-17-704; and the Supreme Court's inherent rule-making authority. Procedural rules applicable to district courts are set out in the District Court Rules.

1. Divisions.

(a) The district court judges shall establish the following subject-matter divisions in each district court: criminal, civil, traffic, and small claims. For purposes of this administrative order, the term "traffic division" means cases relating to a violation of a law regulating the operation of a vehicle upon a roadway.

(b) The designation of divisions is for the purpose of judicial administration and caseload management and is not for the purpose of subject-matter jurisdiction. The creation of divisions shall in no way limit the powers and duties of the judges to hear all matters within the jurisdiction of the district court.

2. Departments.

(a) Each department of a district court shall maintain its own docket, and the docket shall be heard at times and places as may be determined by the judge(s) of the district court. Except as authorized in subsection (2) (b) or as approved by the Supreme Court, each department of a district court shall hear cases in all of the subject matter divisions. "Department" is defined in Ark. Code Ann. § 16-17-901.

(b) If a district court's territorial jurisdiction is only city-wide and the district court has more than one department, the judges of the district court by unanimous written agreement may designate that cases of one or more of the subject matter divisions (criminal, civil, traffic, and small claims) be assigned to one or more of the departments.

3. Civil Jurisdiction. The district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

(a) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars (\$100), excluding interest, costs, and attorney's fees;

(b) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of five thousand dollars (\$5,000), excluding interest, costs, and attorneys' fees;

(c) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of five thousand dollars (\$5,000); and

(d) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of five thousand dollars (\$5,000), excluding interest and costs.

4. *Small Claims Division.* The small claims division shall have the same jurisdiction over amounts in controversy as provided in subsection 3 of this administrative order. Special procedural rules governing actions filed in the small claims division are set out in Rule 10 of the District Court Rules. The following restrictions apply to litigation in the small claims division:

(a) *Restriction on participation by attorneys.* No attorney-at-law or person other than the plaintiff and defendant shall take part in the filing, prosecution, or defense of litigation in the small claims division. When any case is pending in the small claims division of any district court and the judge of the court determines that an attorney is representing any party in the case, the case shall immediately be transferred to the civil docket. However, it is not the intention of this provision and this provision shall not be construed, to abridge in any way the rights of persons to be represented by legal counsel.

(b) *Entities restricted from bringing actions.* No action may be brought in the small claims division by any collection agency, collection agent, or assignee of a claim or by any person, firm, partnership, association, or corporation engaged, either primarily or secondarily, in the business of lending money at interest. "Credit bureaus and collection agencies", by definition, shall include those businesses that either collect delinquencies for a fee or are otherwise engaged in credit history or business.

(c) *Actions by and against corporations.* (1) Corporations, other than those identified in subsection 4(b) of this administrative order, which are organized under the laws of this state and which have no more than three stockholders or in which eighty-five percent or more of the voting stock is held by persons related by blood or marriage within the third degree of consanguinity or any closely held corporations by unanimous vote of the shareholders may sue and be sued in the small claims division. (2) A corporation shall be represented in the proceedings by an officer of the corporation.

5. *Assignment of Judges.* See Administrative Order Number 16.

6. *Jurisdiction of Pilot State District Court Judgeships.* **[This section (6) applies to Pilot State District Court Judgeships ("Pilot District Courts") upon their effective date pursuant to Act 663 of 2007.]**

In addition to the powers and duties of a district court under this administrative order, a pilot district court shall exercise additional power and authority as set out in this section.

(a) *Original Jurisdiction.* A pilot district court shall have original jurisdiction within its territorial

jurisdiction over the following civil matters:

(1) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars (\$100), excluding interest, costs, and attorney's fees;

(2) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of twenty-five thousand dollars (\$25,000), excluding interest, costs, and attorney's fees;

(3) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of twenty-five thousand dollars (\$25,000);

(4) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of twenty-five thousand dollars (\$25,000), excluding interest and costs.

(b) *Reference.* A pilot district court judge may be referred matters pending in the circuit court that arose within the territorial jurisdiction of the pilot district court. A pilot district court judge presiding over any referred matter shall be subject at all times to the superintending control of the administrative judge of the judicial circuit. The following matters pending in circuit court may be referred to a pilot district court judge:

(1) *Consent Jurisdiction.* Matters filed in the civil, domestic relations or probate division of circuit court upon the consent of all parties (see subsection (d) below);

(2) *Protective Orders.* Petitions for temporary orders of protection pursuant to Ark. Code Ann. Section 9-15-206 (The Domestic Abuse Act of 1991);

(3) *Forcible Entry and Unlawful Detainer.* Pretrial hearings pursuant to Ark. Code Ann. Section 18-60-307 (c-e) on a defendant's objection to a writ of possession;

(4) *Other Matters.* Matters of an emergency or uncontested nature pending in the civil, domestic relations, or probate division of circuit court (such as, *ex parte* emergency involuntary commitments pursuant to Ark. Code Ann. § 20-47-209-210, decedent estate administration, uncontested divorces, and defaults) under guidelines and procedures set out in the judicial circuit's administrative plan; and

(5) *Criminal Matters.* Any of the following duties (the rules referenced below are the Arkansas Rules of Criminal Procedure) with respect to an investigation or prosecution of an offense lying within the exclusive jurisdiction of the circuit court:

(A) Issue a search warrant pursuant to Rule 13.1.

(B) Issue an arrest warrant pursuant to Rule 7.1 or Ark. Code Ann. § 16-81-104, or issue a summons pursuant to Rule 6.1.

(C) Make a reasonable cause determination pursuant to Rule 4.1(e).

(D) Conduct a first appearance pursuant to Rule 8.1, at which the judge may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of "not guilty" or "not guilty by reason insanity"; conduct a pretrial

release inquiry pursuant to Rules 8.4 and 8.5; or release a defendant from custody pursuant to Rules 9.1, 9.2, and 9.3.

(E) Conduct a preliminary hearing as provided in Ark. Code Ann. § 5-4-310(a).

If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a pilot district court judge may not accept or approve a plea of guilty or nolo contendere to the offense charged or to a lesser included offense.

(c) *Reference Process.* Except for the exercise of consent jurisdiction which is governed by subsection (d), with the concurrence of a majority of the circuit judges of a judicial circuit, the administrative judge of a judicial circuit may refer matters pending in the circuit court to a pilot district court judge, with the judge's consent, which shall not be unreasonably withheld. A decision of a pilot district court judge is final and binding and is subject only to a right of appeal to the circuit judge to whom the case has been assigned. A party may appeal the decision of a pilot district court judge by filing a motion within ten (10) days of the decision. Copies shall be served on all other parties and the pilot district court judge from whom the appeal is taken. The motion shall specifically state the rulings excepted to and the basis for the exceptions. The circuit judge may reconsider any matter *sua sponte*. The circuit judge shall affirm the findings of the pilot district court judge unless they are found to be clearly erroneous or contrary to law.

(d) *Consent Process.*

1. *Notice.* The circuit clerk shall give the plaintiff notice of the consent jurisdiction of a pilot district court judge when a suit is filed in the civil, domestic relations, or probate division of circuit court. The circuit clerk shall also attach the same notice to the summons for service on the defendant. Any party may obtain a "Consent to Proceed before a Pilot State District Court Judge" form from the Circuit Clerk's Office.

2. *Consent.* By agreeing to consent jurisdiction, the parties are waiving their right to a jury trial and a verbatim record of the proceeding, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals.

3. *Transfer.* Once the completed forms have been returned to the circuit clerk, the circuit clerk shall then assign the case to a pilot district court judge and forward the consent forms for final approval to the circuit judge to whom the case was originally assigned. When the circuit judge has approved the transfer and returned the consent forms to the circuit clerk's office for filing, the circuit clerk shall forward a copy of the consent forms to the pilot district court judge to whom the case is reassigned. The circuit clerk shall also indicate on the file that the case has been reassigned to the pilot district court judge.

4. *Appeal.* The final judgment, although ordered by a pilot district court judge, is deemed a final judgment of the circuit court and will be entered by the circuit clerk under Rule 58 of the Arkansas Rules of Civil Procedure. Any appeal shall be taken to the Arkansas Supreme Court or Court of Appeals in the same manner as an appeal from any other judgment of the circuit court.

7. Small Claims Magistrate.

(a) At the request of the majority of the district judges of a district court, with the concurrence of a majority of the circuit court judges of a judicial circuit, the Administrative Judge of the judicial circuit may designate one or more licensed attorney(s) to serve as a Small Claims Magistrate to preside over the Small Claims Division of the district court. A Small Claims Magistrate shall be deemed the "judge" as that term is used in Rule 10 of the District Court Rules. A Small Claims Magistrate shall be subject to the superintending control of the district judges of the district court.

(b) A Small Claims Magistrate shall possess the same qualifications as a district court judge. The appointment shall be in writing and filed with the District Court Clerk.

8. *Special Judges.* Special district judges shall be appointed or elected in accordance with Administrative Order Number 1 and Ark. Code Ann. § 16-17-210. A special district judge shall have the same qualifications, powers, and authority as a regular district judge.

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS

**NOTICE OF RIGHT TO CONSENT
TO DISPOSITION OF CASE BY A PILOT STATE DISTRICT COURT JUDGE**

In accordance with the provisions of Act 663 of 2007 and Administrative Order Number 18, you are hereby notified that upon the consent of all the parties in a case, a Pilot State District Court Judge may be authorized to conduct all proceedings, including trial of the case and entry of a final judgment. Copies of appropriate consent forms are available from the Circuit Clerk.

You should be aware that your decision to consent or not to consent to the disposition of your case before a Pilot State District Court Judge is entirely voluntary, **and by consenting to the reference of this matter to a Pilot State District Court Judge, the parties waive their right to a jury trial and a verbatim record of the proceedings**, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals as authorized by law.

You should communicate your consent by completing the Form -- **CONSENT TO PROCEED BEFORE A PILOT STATE DISTRICT COURT JUDGE** -- and return to the Circuit Clerk.

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
_____ DIVISION

**CONSENT TO PROCEED BEFORE A
PILOT STATE DISTRICT COURT JUDGE**

(Plaintiff)

v.

CASE NO. _____

(Defendant)

The undersigned parties (or counsel, if so authorized) to this proceeding are fully aware of the right to proceed before a Pilot State District Court Judge and do hereby consent to the reference of the matter to a Pilot State District Court Judge in accordance with Act 663 of 2007 and Administrative Order Number 18.

By consenting to the reference of this matter to a Pilot State District Court Judge, the parties waive their right to a jury trial and a verbatim record of the proceedings, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals as authorized by law.

The Pilot State District Court Judge shall be empowered to conduct all further proceedings and to order the disposition of the matter and the entry of an appropriate judgment.

PLAINTIFFS	DATE	DEFENDANTS	DATE
_____	_____	_____	_____
_____	_____	_____	_____

ORDER OF REFERENCE

IT IS HEREBY ORDERED that this matter be referred to _____,
Pilot State District Court Judge, for the conduct of further proceedings and the entry of judgment in accordance with the foregoing consent.

Date

CIRCUIT JUDGE